

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Promote Policy  
and Program Coordination and Integration in  
Electric Utility Resource Planning.

Rulemaking 04-04-003  
(Filed April 1, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING  
ON MOTION OF PACIFIC GAS AND ELECTRIC COMPANY FOR  
PROTECTIVE ORDER PURSUANT TO RULE 74.7**

Good cause having been shown,

**IT IS RULED** that the July 9, 2004 motion of Pacific Gas and Electric Company for a protective order pertaining to certain computer models, data bases, programs, and input data set formats, including minor modifications proposed by The Utility Reform Network, is granted as set for in the attached protective order.

Dated July 29, 2004, at San Francisco, California.

/s/ MARK S. WETZELL

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Mark S. Wetzell  
Administrative Law Judge

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**PROTECTIVE ORDER**

Pursuant to Rule 74.7 of the Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) has filed a motion seeking a protective order to protect the confidentiality and proprietary nature of the following computer databases, models, programs and input data sets owned by the entity indicated:

(1) GenTrader, owned by Power Costs, Inc. (PCI).

PG&E has also filed a motion for a protective order to protect the confidentiality of the following computer models and databases which PG&E has developed: (1) the "Blender"; (2) QFS (Qualifying Facilities Forecasting System); and (3) the Strategic Analysis Model (SAM).

These databases, programs, models, and data sets and certain elements of each contain or constitute confidential and proprietary trade secret information, and the owners or PG&E could be harmed in their business if this information became available to the parties to this proceeding for purposes other than this proceeding. With respect to the models, the proprietary materials include the models' databases, software, algorithms, and documentation (including any users' manuals, users' guides, training materials, and other materials for use in conjunction with running the models or programs), and any documents prepared by PG&E which reproduce, in whole or in part, those models' databases, software, algorithms, and documentation.

California Public Utilities Code Section 585 and 1822 and Article 17.1 of the Commission's Rules of Practice and Procedure provide safeguards to protect databases and the computer models and provide protection for proprietary information.

A protective order is appropriate in this case to ensure that the proprietary information owned by the owners, and PG&E's information, which it considers confidential and proprietary, are not obtained and used by any party to this proceeding, except solely for the purpose of participating in this proceeding.

**IT IS ORDERED THAT** PG&E shall, in accordance with Article 17.1 of the Rules of Practice and Procedure, provide to parties, on their request, information describing the operation of protected models, databases, programs and data sets, but PG&E need not provide that information in a manner that enables parties to operate the models or programs or manipulate the databases. For the purposes of this proceeding, PG&E is ordered to perform or have performed runs as may be reasonably requested by parties who do not themselves have licenses of the proprietary information owned by others. This order is subject to any separate order governing the confidentiality of proprietary, market-sensitive data or information. Any access to data or information this protective order authorizes may be further restricted by such separate order safeguarding market-sensitive information.

**IT IS FURTHER ORDERED THAT** all consultants and each party (excluding the employees of the Commission, who are bound by the provisions of Public Utilities Code Section 583) who request and receive any proprietary information pursuant to this order shall be subject to the following provisions:

(1) No person requesting and receiving any of the proprietary information shall copy or reproduce it, or cause to be copied or reproduced, any portion of

the proprietary information in any manner that would lead to the disclosure of such information to unauthorized persons who have not signed this protective order. No person requesting and receiving the proprietary information shall disclose or knowingly use such information or notes, workpapers, or work product derived from same, except for the purpose of participating in this proceeding, unless otherwise authorized in writing by PG&E for its proprietary information, or by the owners for their proprietary information.

(2) No person requesting and receiving any of the proprietary information shall disclose it, or notes, workpapers, or work product derived from same to any other person (such as to consultants, expert witnesses, or attorneys) except for purposes of this proceeding, and any such persons shall be informed of this protective order and agree in writing to be bound by it before receiving such information.

(3) Proprietary Information, i.e., information protected by this Protective Order, shall not include any information that (i) is or becomes generally available to the public, (ii) is or was in the possession of the Receiving Party or Authorized Recipients at the time of disclosure, (iii) is or was received from a third party without notice to the Receiving Party of any restrictions as to disclosure, or (iv) is independently developed by the Receiving Party.

(4) All parties who request and receive any proprietary information shall sign the attached "Agreement to Be Bound by Rule 74.7 Protective Order" (Agreement) agreeing to be bound by this protective order and shall provide the signed original statement to PG&E. Any party who engages a consultant shall be responsible for the acts of such consultant or employee of the consultant and shall be further required to provide a duplicate signed original Agreement to the presiding Administrative Law Judge (ALJ) for each consultant and employee

given access to proprietary information. The ALJ shall retain as confidential from PG&E and other parties the name of any such consultant or employee of the consultant. Upon the close of the record in this proceeding, the ALJ shall be relieved of his or her obligation to retain the confidentiality of the identity of the consultant or employee of the consultant allowed access to proprietary information, and such identity may become a matter of public record. At the close of the record, a party shall be obligated, at the request of PG&E, to disclose to PG&E the names of all consultants, or employees of consultants who have obtained access to the proprietary information.

(5) Any portion of the prepared testimony, workpapers, or pleadings in this proceeding which discloses any of the proprietary information shall be served only upon parties who have signed the Agreement as described in (4) above, and any such material filed with the Commission shall be tendered in a sealed envelope stating on the outside that it is sealed pursuant to this protective order. Any such prepared testimony or pleading shall include a legend that reads as follows:

WARNING: THIS DOCUMENT OR MATTER CONTAINED IN IT IS CONFIDENTIAL AND ITS USE RESTRICTED IN ACCORDANCE WITH A JULY 29, 2004 PROTECTIVE ORDER OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION IN RULEMAKING NO. 04-04-003. THE VIEWING, DISSEMINATION, RECORDING, OR COPYING OF THIS DOCUMENT, EXCEPT AS AUTHORIZED BY THE PROTECTIVE ORDER, IS A VIOLATION OF AN ORDER OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION. IT IS A VIOLATION OF THE PROTECTIVE ORDER TO SEPARATE THIS PAGE FROM THE DOCUMENT TO WHICH IT IS AFFIXED.

(6) Within 30 days of the date that the final order of the Commission in this proceeding is no longer subject to judicial review, all parties, including the

Commission and any Commission employees, shall return to PG&E the proprietary information, except that a party may destroy any notes or other materials not returned and shall, within the 30-day period, certify to PG&E and owners that same have been destroyed.

(7) The owners are hereby made parties to this proceeding with the right to enforce this order. Nothing in this section shall be deemed to limit their rights or remedies otherwise available under the law. The obligations pertaining to confidentiality of the proprietary information shall survive the termination of this proceeding.

DATED this 29th day of July, 2004; at San Francisco, California.

/s/ MARK S. WETZELL

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Mark S. Wetzell

Administrative Law Judge

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**AGREEMENT TO BE BOUND BY RULE 74.7 PROTECTIVE ORDER**

I certify my understanding that (1) my access to proprietary materials and information, as discussed in the attached protective order in R.04-04-003, is provided to me pursuant to the terms and restrictions of that protective order, and (2) I have been given a copy of, and have read, that protective order and agree to be bound by it. I understand the protected information, or any notes, documents, memoranda containing such protected information: (a) shall not be disclosed to anyone other than in accordance with that protective order; and (b) shall and may be used only for the purposes of participating as a party in R.04-04-003. I agree that my obligation to honor the confidentiality of protected information shall continue after the issuance of a final, non-appealable order disposing of the merits of R.04-04-003. I acknowledge that a violation of this certificate constitutes a violation of an order of the California Public Utilities Commission.

Signature:\_\_\_\_\_ Date\_\_\_\_\_

Name:\_\_\_\_\_

Reviewing Party:\_\_\_\_\_

Employer:\_\_\_\_\_

Position:\_\_\_\_\_

Business Address:\_\_\_\_\_

Business Phone:\_\_\_\_\_

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling on Motion of Pacific Gas and Electric Company for Protective Order Pursuant to Rule 74.7 on all parties of record in this proceeding or their attorneys of record.

Dated July 29, 2004, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.